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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,094	12/13/2001	Thomas E. Coverstone	02820.0003.NPUS00	9964
23369	7590	05/31/2006	EXAMINER	
HOWREY LLP			FOX, BRYAN J	
C/O IP DOCKETING DEPARTMENT			ART UNIT	
2941 FAIRVIEW PARK DRIVE, SUITE 200			PAPER NUMBER	
FALLS CHURCH, VA 22042-7195			2617	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/020,094

Applicant(s)

COVERSTONE, THOMAS E.

Examiner

Bryan J. Fox

Art Unit

2617

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Bryan Fox

JOSEPH FEILD

SUPERVISOR

### **DETAILED ACTION**

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

#### ***Response to Arguments***

Applicant's arguments filed May 10, 2006 have been fully considered but they are not persuasive.

The Applicant argues Ito fails to disclose a processor for determining position location trends. The Examiner respectfully disagrees. The Examiner maintains that the broadest reasonable interpretation in light of the specification of determining location trends would include the positioning a mobile phone where a current position may be estimated to some degree from a previous history (see column 10, lines 28-39).

The Applicant argues Ito fails to disclose a transmitter for transmitting targeted broadcasts based on position location trends. The Examiner respectfully disagrees. The Examiner maintains that the broadest reasonable interpretation in light of the specification of a transmitter for transmitting targeted broadcasts based on position location trends would include the data signals that may be provided from the PHS base station pertaining to traffic jam information or closed street information (see column 10, lines 40-65).

The Applicant argues Ito fails to disclose a transmitter for transmitting targeted broadcasts based on the location of the wireless communication device. The Examiner respectfully disagrees. As discussed above, the Examiner maintains that the broadest reasonable interpretation in light of the specification of a transmitter for transmitting

targeted broadcasts based on position location trends would include the data signals that may be provided from the PHS base station pertaining to traffic jam information or closed street information (see column 10, lines 40-65).

The Applicant argues Ito fails to disclose a processor for processing stored data and selecting a targeted broadcast audience, and a transmitter for transmitting targeted broadcasts to the targeted broadcast audience. The Examiner respectfully disagrees. The Examiner maintains that the broadest reasonable interpretation in light of the specification of a processor for processing stored data and selecting a targeted broadcast audience, and a transmitter for transmitting targeted broadcasts to the targeted broadcast audience would include the estimating a current position to some degree from a previous history (see column 10, lines 28-39), and data signals that may be provided from the PHS base station pertaining to traffic jam information or closed street information (see column 10, lines 40-65).

The Applicant makes similar arguments with respect to claim 35, however, for the same reasons outlined above, the Examiner respectfully disagrees.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan J. Fox whose telephone number is (571) 272-7908. The examiner can normally be reached on Monday through Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JOSEPH FEILD  
SUPERVISORY PATENT EXAMINER

Bryan Fox  
May 19, 2006